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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

WRIT PETITION NO. 3272 OF 1995

Petitioner: K.R. Thakur, aged about 45 years, son of Shri Jagdish Singh Thakur, by occupation - Service (wrongly dismissed), R/o Albelapara, Kanker, District-Bastar.

Versus

- Respondents:**
1. Dena Bank a banking company incorporated under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, having its Head Office at Bombay through its Chairman.
 2. The General Manager (ORI), Dena Bank, Personal Department, Bombay.
 3. The Assistant General Manager (P), Personal Department, Dena Bank, Bombay.
 4. The Zonal Manager, Dena Bank, Zonal Office, Bhopal.
 5. The Regional Manager, Dena Bank, Regional Office, Raipur.

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

Present: Shri Parag Kotecha, counsel for the petitioner.
Shri P.S. Koshy, counsel for the respondents.

ORAL ORDER

(20th January, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. This petition is filed by an Officer of the Bank, who was dismissed from the services by order dated 16.11.1994 (Document No. 10), passed by the respondent No. 3,

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- subsequently confirmed by order dated 20.04.1995 (Document No. 12 and 12-A) passed by the respondent No. 2.
2. The facts in nutshell are that the petitioner was appointed as Clerk-cum-Cashier by the order dated 07.04.1976 (Document No. 1) and was posted in the Office of the Development Manager. The petitioner thereafter was promoted to the post of Junior Manager Scale-1 by order dated 13.04.1985 (Document No. 2)
3. On 3.11.1993, a memo of charge-sheet was issued by the disciplinary authority, i.e. Zonal Manager (Respondent No. 4), Bhopal, whereby serious charges of misconduct was alleged against the petitioner to the effect that while working as Branch Manager at Bhaismundi Branch, the petitioner was sanctioned housing loan to the tune of Rs. 1,25,000/-, by the Zonal Office. The petitioner disbursed an amount of Rs. 2,27,000/- against the sanctioned amount of Rs. 1,25,000/- in his own favour without any authority. The petitioner further debited an adhesive stamp account in General Ledger by Rs. 3129/- as on 16.10.1992 against this, when stock of Rs. 399/- adhesive stamp was found in the stock. Thus the petitioner misappropriated Rs. 2730/-. Further a sum of Rs. 1,19,000/- was drawn by cash vouchers without authority of purchasing the adhesive stamps. Thereafter the entries were reversed for Rs. 5000/- and 14,000/- on 1.12.1990 and 30.08.1991 respectively. The petitioner was accordingly charged for:-

- (1) Lack of good conduct and discipline and/or

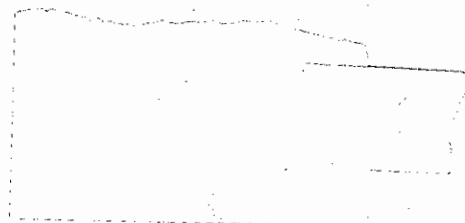
- (2) Lack of integrity and/or
- (3) Dishonesty and/or
- (4) Misusing authority vested in him as a Branch Manager for personal gains and/or
- (5) Unbecoming of a Bank Officer.

The charge-sheet was issued for several charges constituting misconduct under Regulation 3 (1) read with Regulation 24 of Dena Bank Officer Employees' (Conduct) Regulation 1976 punishable under Dena Bank Officer Employees' (Discipline and Appeal) Regulation 1976.

4. The petitioner had submitted his reply to the charge-sheet on 6.05.1994 (Document No. 6). The Enquiry Officer after having given sufficient opportunity of hearing to the petitioner conducted an enquiry and submitted his report on 21.05.1994 (Document No. 9), holding that all the charges have been found proved and the action of the petitioner were highly questionable and violative of good conduct and discipline. The disciplinary authority, agreeing with the enquiry report in exercise of power vested with him under Regulation 7(3) of Dena Bank Officer Employee's (Discipline and Appeal) Regulation 1976, imposed penalty of dismissal without notice with immediate effect.
5. The petitioner preferred an appeal against the order of dismissal dated 16.11.1994 to the respondent No. 2, the respondent No. 2 vide its order dated 20.04.1995 (Document No. 12-A), upheld the finding recorded by the enquiry report as well as the order passed by the disciplinary authority and dismissed the appeal.

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6. Shri Parag Kotecha, learned counsel appearing for the petitioner, submits that the enquiry report is bad on account of the fact that the Enquiry Officer extracted confessions and admissions from the petitioner under duress. It was further contended that the petitioner did not know the name of the Enquiry Officer, the Enquiry Officer did not allow assistance of some other Officers and the petitioner was terrorized during the enquiry. Witnesses were not examined and it was lastly contended that the Zonal Manager who was in the rank of Assistant General Manager was not the disciplinary authority and as such the final order was passed by him who was incompetent.
7. Shri P.S. Koshy, learned counsel appearing for the respondents, submits that the Enquiry Officer has not proceeded on the basis of admissions or confessions made by the petitioner. The Enquiry Officer has examined all the relevant documents and witnesses produced by both the parties. The enquiry report is exhaustive and the charges have not been found proved on the basis of any admission or confessions allegedly made by the petitioner. On bare reading of the charge-sheet, it is clear that the charge sheet was issued by the Zonal Manager (disciplinary authority), the petitioner was afforded full opportunity before the enquiry authority.
8. I have heard learned counsel for the parties and perused the records, appended to the petition as well as to the return filed by the respondents.



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9. In the present case the charge-sheet was issued on 23.03.1994, when the circular dated 25.06.1987 (Annexure R-XVI) was in force. Under the said circular, the disciplinary authority for the post of Officers in pay-scale-1 and 2 was respective Assistant General Manager in charge of the Zone. In the present case, the petitioner was Officer in pay-scale-1 when the charge sheet was issued by the Zonal Manager, Bhopal, who happens to be the Assistant General Manager. Hence, the contention of the petitioner that the charge sheet was not issued by the competent authority is rejected. With regard to other contention of the petitioner that he was not given sufficient opportunity to take assistance of some other Officers and his admissions or confessions were made under duress etc., cannot be accepted on simple ground that the enquiry report was examined by the disciplinary authority, the Zonal Manager and thereafter in appeal by the appellate authority (Respondent No. 2) and all the authorities have given the detailed exhaustive reasons for agreeing with the enquiry report. I have not found any infirmity or irregularity as contended by the petitioner in the enquiry report, order of dismissal passed by the Zonal Officer and the order passed by the appellate authority in appeal. Hence, the contention of the petitioner are rejected.
10. Learned counsel for the petitioner, further, contends that the circular dated 25.06.1987 (Annexure R-XVI), has not been notified under Section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and as

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such the same cannot be considered at this stage. The circular has clearly been addressed to the Regional Managers, Zonal Manager, and Departmental Heads at head office, main offices of Dena Bank. In the circular it is clearly stated that the Board of Directors at its meeting held on 8.10.1997, has approved a schedule of various authorities such as disciplinary authority, appellate authority and reviewing authority for dispensing of disciplinary action cases of various categories of Officers from Junior Management Grade Scale-1 to Top Executive Scale-VII. In view of the above reasons, contention of the petitioner deserves to be rejected.

11. Learned counsel appearing for the petitioner, further submits that the respondents be directed to consider the case of the petitioner for reduction/modification of the punishment awarded to him. The respondents are at liberty to consider this submission appropriately, in accordance with law.
12. The Supreme Court in **Ganesh Santaram Sirur Vs. State Bank of India & Another** (2005)1 SCC 13, dealing with the discipline and misconduct of a Bank Officer has held as under:-

“34. The bank manager/officer and employees of any bank, nationalized/or non-nationalised, are expected to act and discharge their functions in accordance with the rules and regulations of the bank. Acting beyond one's authority is by itself a breach of discipline and trust and a misconduct. In the instant case Charge 5 framed against the appellant is very

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serious and grave in nature. We have already extracted the relevant Rule which prohibits the bank manager to sanction a loan to his wife or his relative or to any partner. While sanctioning the loan the appellant did not appear to have kept this aspect in mind and acted illegally and sanctioned the loan. He realized the mistake later and tried to salvage the same by not encashing the draft issued in the maiden name of his wife though the draft was issued but not encashed. The decision to sanction a loan is not an honest decision. Rule 34 (3) (1) is a rule of integrity and, therefore, as rightly pointed out by Mr. Salve, the respondent Bank cannot afford to have the appellant as bank manager. The punishment of removal awarded by the appellate authority is just and proper in the facts and circumstances of the case. Before concluding, we may usefully rely on the judgment **Regional Manager, U.P.S.R.T.C. v. Hoti Lal** wherein this Court has held as under: (SCC p. 614, para 10)

"If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court do not appear to be

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proper. We set aside the same and restore order of the same learned Single Judge upholding the order of dismissal."

13. In view of the decision of the Supreme Court in **Ganesh Santaram Sirur** (supra) and for the reasons stated above, this petition is dismissed. No order as to costs.

Sd/-
SATISH K. AGNIHOTRI
Judge